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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/779,578	02/16/2004	Sharon Mocerì	1752-000001	9309

27572 7590 01/12/2005

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EXAMINER

CONLEY, FREDRICK C

ART UNIT PAPER NUMBER

3673

DATE MAILED: 01/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/779,578

Applicant(s)

MOCERI, SHARON

Examiner

FREDRICK C CONLEY

Art Unit

3673

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 25 October 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 and 10-14 is/are rejected.
- 7) ☒ Claim(s) 9 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-2, 5-6, 10-11, and 13-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pat. No. 5,911,654 to Webb in view of U.S. Pat. No. 2,641,779 to Gill.

Claim 1, Webb discloses a cover for a headboard or footboard comprising a sleeve having a frontal exterior (14b) and a rearward exterior (14a) wherein said frontal exterior extends toward a bed along the front portion of said headboard or footboard and further comprises a first panel and a second panel, and said rearward exterior extends toward said bed along the rear portion of said headboard or footboard and is a sufficient length to cap said headboard or footboard, wherein said frontal exterior and said rearward exterior are connected by at least one seam (col. 4 lines 47-51). Webb fails to disclose the first and second panels scalloped to form a swag. Gill discloses a headboard having a scalloped top edge and a cover having first and second panels scalloped along the top edge of the first and second panels thereby forming a swag (fig. 2). Scallop is defined as "a border having at least one semicircular curved projection" and swag is defined as "an ornamental hanging as a valance draped in a curve between two points", Webster's II New Riverside University Dictionary. Thus, the top edge of Gill clearly anticipates the Applicant's limitations of the panels scalloped to form a swag. It

would have been obvious to one having ordinary skill in the art at the time of the invention to scallop the panels as taught by Gill in order to snugly fit over a headboard and footboard having a scalloped top edge.

Claim 2, Webb discloses the claimed invention except for said rearward exterior is from about 7 inches to about 12 inches in length. It would have been an obvious to have the rearward exterior from about 7 inches to about 12 inches in length, since Applicant has not disclosed that the length of the rearward exterior is critical and it would appear that the length of Webb would perform equally well.

Claim 5, wherein said sleeve is comprised of fabric (col. 6 lines 42-43).

Claim 6, wherein said fabric is upholstery.

Claim 10, further comprising a decorative trim (col. 6 lines 52-55).

Claim 11, Webb discloses the claimed invention except for said decorative trim ,selected from the group comprising piping, lace or eyelet. It would have been an obvious to have the decorative trim as stated above, since Applicant has not disclosed that the decorative trim is critical and it would appear that the decorative trim of Webb would perform equally well.

Claim 13, wherein said cover is inherently twin, full, queen, king or California king size.

Claim 14, Webb discloses a system for decorating a bed comprising:

a) a headboard cover 14 comprising a sleeve having a frontal exterior (14b) and a rearward exterior (14a) wherein said frontal exterior extends towards a bed along the front portion of a headboard and further comprises a first panel and a second panel, and

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said rearward exterior extends towards said bed along the rearward exterior extends toward said bed along the rearward portion of said headboard and is a sufficient length to cap said headboard, wherein said frontal exterior and said rearward exterior are connected by at least one seam (col. 4 lines 47-51 ); and

b) a footboard cover 16 comprising a sleeve having a frontal exterior (16b) and a rearward exterior (16a) wherein said frontal exterior extends towards a bed along the front portion of a footboard and further comprises a first panel and a second panel, wherein said rearward exterior extends towards the bed along the rearward exterior extends toward said bed along the rearward portion of said footboard and is a sufficient length to cap said headboard, wherein said frontal exterior and said rearward exterior are connected by at least one seam (col. 4 lines 62-66). fails to disclose the first and second panels scalloped to form a swag. Gill discloses a headboard having a scalloped top edge and a cover having first and second panels scalloped along the top edge of the first and second panels thereby forming a swag (fig. 2). Scallop is defined as "a border having at least one semicircular curved projection" and swag is defined as "an ornamental hanging as a valance draped in a curve between two points", Webster's II New Riverside University Dictionary. Thus the top edge of Gill clearly anticipates the Applicant's limitations of the panels scalloped to form a swag. It would have been obvious to one having ordinary skill in the art at the time of the invention to scallop the panels as taught by Gill in order to snugly fit over a headboard and footboard having a scalloped top edge.

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Claims 3-4, 7-8, and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pat. No. 5,911,654 to Webb in view of U.S. Pat. No. 2,641,779 to Gill and further in view of U.S. Pat. No. 5,802,637 to Bordo.

Claims 3-4, Webb discloses all of the Applicant's claimed limitations except for having a constriction element. Bordo discloses a cover having a constriction element 47. It would have been obvious to one having ordinary skill in the art at the time of the invention to employ a constriction element as taught by Bordo in order to fix the cover around the headboard. Webb discloses the claimed invention except for the constriction element disposed in said rearward exterior at about one half of the length of said rearward exterior or the constriction element located about 6 inches from the top of said rearward exterior. It would have been obvious to have the constriction element located as stated above, since Applicant has not disclosed that the location of the constriction element is critical and it would appear that the locations of the constriction element of Webb would perform equally well.

Claim 7, wherein said constriction element 47 is elastic (Bordo).

Claim 8, wherein said elastic is flat elastic.

Claim 12, Webb discloses all of the Applicant's claimed limitations except for said decorative trim comprising ruffled fabric. Bordo discloses a cover having a ruffled fabric (col. 4 lines 44-46). It would have been obvious to one having ordinary skill in the art at the time of the invention to employ the ruffled fabric as taught by Bordo in order to create an aesthetically pleasing look.

***Allowable Subject Matter***

Claim 9 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.


***Response to Arguments***

Applicant's arguments with respect to claims 1-8 and 10-14 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to FREDRICK C CONLEY whose telephone number is 703-308-7468. The examiner can normally be reached on M-TH.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, HEATHER SHACKELFORD can be reached on 703-308-2978. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

  
HEATHER SHACKELFORD  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

FC